

BOARD OF MAYOR AND ALDERMEN

October 4, 2005

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll. There were fourteen Aldermen present.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault and Forest

Mayor Baines stated before we begin the meeting this evening could I ask everyone to please stand for a moment of silence in honor of Ralph Garst a distinguished public servant and advisor to many Mayor's over the past few decades, someone who made innumerable contributions to our city government, to so many charitable organizations in our community. We have truly lost a cherished friend and I would like to observe a moment of silence in his memory this evening. Thank you, please be seated.

Alderman Gatsas stated, your Honor, with regard to Mr. Garst there's a building, a city building the Manchester Animal Shelter is housed and he was pretty instrumental in putting (1) that group together and (2) advocating for the building so that there would be a new structure across the street. Some of those funds were used in the closing of that and I would like to recommend that we name that building after Ralph Garst.

Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

Mayor Baines stated first of all I have a couple of brief announcements. You may see a lot of pink ribbons all around City Hall, around the city...as you know we've embarked with the American Cancer Society, Manchester Chapter, the Mayor's Crusade Against Cancer to bring awareness to the various cancers afflicting Manchester's residents and encouraging early detection. This month is focusing on breast cancer awareness and we're urging people to get proper screenings both males and females to help with early detection because there is so much advancement going on in this field right now and we want to encourage everyone not only in city government but citizens across the community to please consult with your doctors and getting the situation where you can get a cancer under control if you do have one. So, that's what's going on and I want to thank everybody that's involved in the effort both Joan Porter and Steve Tellier have been involved in helping us coordinate this effort and our thoughts and prayers are with Steve Tellier this evening as well.

3. Update of damages to Central High School and contract compliance by Public Works Department and Risk Management.

Mayor Baines called upon Mr. Tim Clougherty.

Mr. Tim Clougherty, Chief Facilities Manager, stated there has been some damage at Central High School in various areas. The most significant of which was the vandalism, the results of the vandalism that occurred in late August just before school started. Other areas that we've identified to have some deficiencies...we're currently looking into at the Joint School Buildings Committee meeting last week I reported that there are issues. We have had two independent reports from the same inspection company come through in order to further identify what the issues are with the floor. We found that those reports are inconclusive. I did forward those reports down to the Clerk's office for distribution...I don't know if they made it out for this evening's meeting but they should be available to all Board members. The reports themselves and I'll just briefly give you an update in case you haven't had the opportunity to review them...they talk about various potential deficiencies from the patterning of the floor spacing to the product that was utilized and potentially improperly butting the joints together, it talks about looking into adhesives and it talks about (in some strong language) looking into the maintenance provisions that are used, the amount of water and what have you. The bottom line is that we have two reports now that don't give us anything conclusive and as reported to the Joint School Buildings Committee and correspondingly received their authorization we're going to be calling in someone that's reported to be an expert in the field of wood science as well as underlayment and vinyl composition tile as it relates to the situation that we have to try to further identify the potential causes and correspondingly lay blame to the parties that are involved with it. As some of you may be aware Aramark is responsible for maintaining our floors and stripping and waxing and cleaning on a daily basis and they do carry general liability. Gilbane is our construction manager, design builder with respect to the floors that were done at Central High School in the Classical Arts building. Not only do they carry general liability but they also have contract clauses that deal with materials, defective workmanship and what have you. So, at this point in time we plan on engaging the services of this consultant providing as much information as we possibly can relative to the materials that are contained in the floors and the potential damages that exist as well as the conditions that the floors have been subject to and hopefully getting a more definitive answer as to exactly where we're going with respect to this situation.

Mayor Baines asked are there any questions from members of the Board?

Alderman Gatsas stated Tim the concerns I have is one and I think that these are concerns that certainly we don't need an expert to come in because it's an AC grade that was called for and they used a BC grade that's something that you can determine pretty quick. So, either that's happening or it's not I don't know if we need a professional to come in and tell

us they didn't use the grade by spec and if that's the case was it used throughout the entire project for \$105 million on different grades or is it just there. I think that we do not need an expert to tell us that. I don't think we need an expert to tell us that the pattern should be every six inches and it's every 8.5 to 9 inches...that's a pretty clear set by specs and I think you could make that determination or I could make that determination very easily without bringing somebody in to give us an answer. Have you had the ability to see any of this and make your professional opinion on whether they used what was called for in the specs or if they didn't?

Mr. Tim Clougherty replied I can appreciate whether it's an AC grade or a BC grade plywood. As the report indicates there is BC grade that was installed at least in the areas that were pulled up while our specification calls for AC grade. The report also goes on to say that the fact that BC grade used does not diminish the integrity of the floor and isn't causing the problems that we're seeing. While I can fully appreciate the fact that if AC was specified we should be looking for AC and that's one of the areas that we'll be looking at according to the report that we have they say that that's not a factor contributing to the delaminating floor tiles.

Alderman Gatsas stated, Tim, let's understand I'm not really concerned with what brought the floor tiles up. It is my understanding that the difference per square foot is five to ten cents a square foot and if somebody is supposed to use AC grade and that's what we're paying for on a \$105 million project I don't care what brought the floor up. What should have been put down is AC because that is what the taxpayers and this Board understood was going to happen. I guess my question is is it just in that one tile or is it somewhere else and I have a follow-up about the asbestos?

Mr. Tim Clougherty replied I can't answer the question as to whether it's just in that one tile that's part of the survey that we're doing to try to find out exactly what was installed in all of the various areas because we have different sub floors...there were areas where there were tiles, areas where there wasn't tile, there was some taken up, we're trying to do a comprehensive survey to see exactly what was installed in all of those areas.

Alderman Gatsas stated my understanding is that what it says in here...I was informed that under the hardwood floors is an item or items containing asbestos...that's on the second letter that was received. Now, my understanding was that that asbestos was supposed to be encapsulated between the old floor and the ceiling and the new floor so that it couldn't go anywhere. Now, I understand that you had people in there with their suits on and obviously the amount of water that soaked those floors the asbestos had to go somewhere. Now, is there no remittance of it anywhere?

Mr. Tim Clougherty replied we did have people there with suits on. I was confused as to exactly which areas we were talking about when we discussed this issue with the Joint

School Buildings Committee meeting last week. In the area where the vandalism took place there is a felt paper which is asbestos containing material which is located between the original sub floor and the original maple floor which is roughly three layers below the top of the existing floor. Now, there was water damage, we did have a certified industrial hygienist that came in to monitor the cutting and the removal of the plywood that was taken out because of the damage and his professional opinion was that there was no threat of any airborne asbestos in that situation because of the location of the asbestos containing material...that being three layers below and in fact it was encapsulated, it did not become airborne and, therefore, he saw no reason to take our monitoring or personal protective equipment further.

Alderman Gatsas asked if you have a copy of that report can you get us that also?

Mr. Tim Clougherty replied I don't have a report from him he was merely consulted with during the process.

Mayor Baines stated again we do have a Joint Buildings Committee overseeing the project.

Alderman Gatsas stated the other understanding I have is Gilbane...have we paid them for all their change orders?

Mr. Tim Clougherty stated all the change orders that are justified, yes.

Alderman Gatsas stated all the change orders that they're requesting.

Mr. Tim Clougherty stated no.

Alderman Gatsas asked much do you say that's in abeyance?

Mr. Tim Clougherty replied I don't have those numbers with me.

Alderman Gatsas stated roughly within a million dollars.

Mr. Tim Clougherty stated I wouldn't even venture to guess to tell you the truth, Alderman.

Alderman Gatsas asked when can you report that back to this Board?

Mr. Tim Clougherty replied at your next meeting.

Mayor Baines stated it would be going to the Joint School Buildings Committee.

Alderman Gatsas stated, your Honor, I have a real problem that we talk about a \$105 million project that this Board had to take a vote on and pass and we have five or six members on both committees that right now have spent down the residual that's there.

Mayor Baines stated that's their authority under state law.

Alderman Gatsas stated I understand that, your Honor, but I think that when you talk about a \$10 million reserve, we as a Board should be at least looking at that and finding out where that money's going.

Mayor Baines stated again that's why you have the Joint School Buildings Committee that's made up of representatives from the Aldermen and the School Board.

Alderman Roy stated just a question for clarification to Alderman Gatsas. The residual...I'm not sure about the spend down comment...is that on the contract or is that on the contingency.

Alderman Gatsas replied contingency.

Alderman Roy stated if Tim wants to address the contingency amounts and what has been paid or has not been paid out of that account.

Mr. Tim Clougherty stated the contingency balance we started out with was roughly \$5.65 million. Outstanding right now we're probably looking at about \$3.2 million in balance.

Alderman Gatsas stated I think it's imperative that we don't wake up one morning and see a lawsuit from Gilbane that people knew about and we don't know about it and I just want to make sure that that doesn't happen. I would rather know about it, understand it and see if we can work through it. I don't want to read about it in the paper.

Mayor Baines stated let's move on. Thank you very much, Mr. Clougherty. When the Joint School Buildings meetings are posted if Aldermen do have concerns I would invite them to go to those meetings because that is when everything is presented...that is the forum that's been set up under every project I think the city's ever done.

Mayor Baines stated I just want to read into the record a report that I'm giving related to the most recent incidents at Club Omega and I will read it so that it's read into the record and people at home can understand what's going on as well.

I met with Chief Jaskolka, his staff, and the City Solicitor to review what has been occurring at Club Omega and to review options on how to handle this unacceptable situation.

The Police Chief will be meeting with the owners of Club Omega to outline the steps the city will be taking, including a “zero tolerance” policy regarding incidents at the club (I know the Chief has already scheduled a meeting with Eddie Edwards the Chief of Enforcement for the Bureau of Liquor Enforcement, I believe, tomorrow).

A meeting will be scheduled with state liquor enforcement officials (as I just said) to develop a strategy to focus on Club Omega.

The Fire Chief has been asked to review and monitor capacity issues at the club to ensure compliance.

The Police Chief, City Solicitor and the City Clerk are reviewing the city’s Nuisance Ordinances to determine how they can be applied to deal with ongoing problems at the club and to determine whether or not they need to be strengthened. (Once that review is complete, again, we’ll be coming back to the Board with that information).

The City is also exploring what options are available to the city to petition the State Liquor Commission directly to revoke the liquor license for the club.

Over the past several months there have been ongoing conversations involving the Manchester Police Department and the New Hampshire Bureau of Liquor Enforcement regarding coordinating efforts to curb inappropriate and illegal activities associated with late-night liquor related activities. In addition, I have met with the City of Manchester’s Alcohol, Tobacco and Other Drugs Task Force (and I know some members of this Board may have also been in attendance at the meeting we held in July along with state officials and some representatives...I think Senator D’Allesandro among others were there as well) to focus on the city’s ability to alleviate problems with underage drinking. The city is also exploring legislative action to help address the variety of issues associated with underage individuals being permitted entrance to liquor establishments. (I know the Task Force has taken a stance in opposition to that practice but it’s a long way to go because we are dealing with state rules and regulations that have been promulgated over a long period of time, but I believe it’s time to look at those things and I know our Task Force has asked us to begin looking at those).

Mayor Baines stated that’s really all I have to report at this time and if any Board members have any questions at this time on that issue obviously the Chief is here as well and I’d be glad to respond to any questions you might have.

Alderman Gatsas stated as a matter of fact I met with the Liquor Commission along with Mr. Boldin with the discussion about underage drinking and I asked Mr. Boldin some three weeks ago if he could come forward with whenever there’s been an arrest in a club for serving a minor. The Commission said that there was nothing on record. If there was they would have certainly followed suit to pull somebody’s license or at least have a hearing if there were such things happening and now I haven’t heard from Mr. Boldin so I would assume that he has found nothing in the underage drinking.

Mayor Baines stated I believe there was an arrest this past Saturday night in one of the establishments, am I correct, Chief?

Chief Jaskolka replied yes.

Alderman Gatsas stated when we met there were none.

Mayor Baines reiterated but there was one Saturday night.

Alderman Gatsas stated I think that it was pretty clear to Mr. Boldin what the process had to be with the Liquor Commission.

Mayor Baines stated again that's being handled...I'm not sure exactly what you're referring to but it is obviously going through the Police Department at this particular point.

Alderman Gatsas stated the Liquor Commission and Enforcement...we met for this particular reason and it was up to the Liquor Commission and the only way they can enforce it is if the Chief or if there was a violation. Now, if there was a violation on Saturday I can't tell you that there's ever been one before so that the violation wasn't there.

Mayor Baines stated I can't believe that this is the first underage drinking incident we've had in the City Saturday night.

Alderman Gatsas stated Mr. Boldin's right there I'm sure he'd like to address it.

Mayor Baines stated if you want to sure please come forward. I'm not sure, maybe if you could explain it one more time what the process is supposed to be, Alderman.

Alderman Gatsas stated the process was that Mr. Boldin had arranged a meeting with myself, Senator D'Allesandro and the Liquor Commission to address the underage drinking in the city and after about an hour-and-a-half's worth of conversation I posed the question have there been any arrests in these clubs or service of minors or liquor to minors and the Liquor Commission said they didn't think so because they would have been there to enforce the law because nothing has come up to them. Now, I don't know if Mr. Boldin's done anymore analytical work with the Police Department and come up with any such arrests other than the one that happened on Saturday.

Mr. Martin Boldin, Director of the Office of Youth Services, stated at the meeting with the Liquor Commission, like you said, we did come to the conclusion that one of the ways to address this problem was to look at what violations there had been and current law and how to address those given the current guidelines and laws that the Liquor Commission puts in place. We also had a question about whether or not looking at the supply side of this issue was important and how to look at that and how to address that through revision of RSA's. But, I did take your suggestion back to Kevin Kincaid who reports to the Alcohol, Tobacco and Other Drugs (ATOD) Task Force and collected a lot of the data that helped us, the ATOD come to it's conclusion on this. What he said to me initially was that he had to go back and look at the data that they had collected because my understanding is that the Police Department collects that information based upon the rest and didn't divide it up into ages.

Late last week he informed me that a number...I want to say it was 51, but it was definitely more than zero of the arrests that had happened at Club Omega were underage citizens that happened on premises and that the Police Department I believe as has been said here tonight is engaged in conversations with the Liquor Commission and the ownership of Club Omega about the issues that are going on there.

Alderman Gatsas stated I guess I have a question of the Chief if he's here. Chief, can you tell me were any of those 51 underage drinking violations ever reported to the Liquor Commission?

Chief John Jaskolka replied I'm not sure, Alderman. Part of the arrests that are made or what I believe are made are internal possession...in other words there's an intoxicated juvenile or underage person in the club. So, I don't believe that the arrests were made for actual service by the club but the underage person was intoxicated in the club.

Alderman Gatsas stated so I guess clarification to what Mr. Boldin said then nobody's been arrested, no bartender served a minor in the club that could have been an intoxicated minor within the club that's not a jurisdiction from what I understand that the Liquor Commission can do anything about.

Chief Jaskolka stated that's one of the things we're going to talk to Eddie Edwards about tomorrow. We have the underage drinkers who have admitted to us that they were in fact served at the clubs.

Mayor Baines stated I think we need to let this go forward with the state agencies. One of the things that we're concerned about, Alderman, as the Task Force is concerned about is when you get that number of people into an environment it's hard to believe that there's not a lot of underage drinking going on simply because of the sheer numbers of people that have alcohol or are there with minors and one has alcohol and one doesn't and that's the situation we're trying to get at. It's not a healthy environment.

Alderman Gatsas stated, your Honor, I don't disagree one second with what you're saying...I agree with you. If anybody's serving a minor in any establishment they should lose their license. My question is if that's the case and that's what we're saying that's one thing but if we have minors that are testifying has that been reported to the Liquor Commission because we sat there for two hours and never heard that from the Commission. Am I right, Mr. Boldin?

Mr. Boldin replied yes you're correct.

Alderman Gatsas stated thank you.

Alderman O'Neil stated one of the things I hope happens in this discussion...we've been through this once before in the City of Manchester with a club called The Pyramid on the west side and Bill Cashin was here earlier and he can talk about the nightmares. We can't put all of the emphasis that this is liquor only and that that is going to be solved. What we really need some help from the Legislature with is giving us some power...I don't know if it's the business license or something because the Liquor Commission can only enforce certain laws. A lot of these actions have nothing with liquor laws. So, that's where we really need help and again we've been through this once before, we put a lot of stock in liquor laws...that didn't help during the period of The Pyramid where we had people running through neighborhoods with guns...that has nothing to do with liquor laws. So, I hope that is where there is some concentration is from the business license side of these places, give some local control over that. Thank you.

Mayor Baines stated the thing that most distrust me was the response by the business owner to the effect that we have just got to accept the fact that the crime is going to be part of what we're going to deal with these situations...that is simply not acceptable but we are looking at all of those avenues as well.

Alderman Gatsas stated I have a question of the Chief again. Chief, can you refresh my memory...when the so-called Zoo that was on Union Street...there was a closure of that establishment...I know it was before you were being Chief but there was some city ordinance that kept it from reopening. Can you explain to me what that was or maybe I could give you an opportunity because I know that that was an issue back years ago that kept them from opening.

Chief Jaskolka replied I don't recall what that was, Alderman.

Alderman Forest stated I think there was a fire at the Zoo and it was the Building Code that kept it from reopening.

Mayor Baines stated the same thing with The Pyramid it ended up closing down on its own because of what the city was doing to have strict enforcement and I think it became not a very attractive place to go anymore and they ended up having to go out-of-business. Marty, do you know anything about that?

Mr. Boldin stated no I don't know anything about that.

Alderman Lopez stated I think everybody sitting at this table that is an elected official...we're not going to tolerate anything and I think that we have to take a process here because we're dealing with ordinances, we're dealing with state law and if the state law has to be changed for whatever purpose. We're not going to tolerate the type of activities that go on in the City of Manchester and that's plain and simple and so everybody's got to come

together, work together and work toward a good solution and let's let the process move forward.

Alderman Guinta stated the 51 underage violations I guess for lack of a better term...are those at the one club, the 51 that you were referring to?

Mr. Boldin replied that was from a verbal report that I received from Kevin Kincaid last week.

Alderman Guinta asked are they 18+ nights or are they for...do they have 18+ nights?

Mr. Boldin stated I think what the Alcohol, Tobacco and Other Drugs Task Force is trying to do is it's trying to put together data that we've been thinking about for almost a year now to try to build an argument about what is really in the best interest of young people in the City of Manchester. Once the July 6th meeting happened there were two requests from that committee. One was to ask the Mayor and Board of Aldermen to look at all of the reasonable ways that the city could respond to the under 21 drinking situation and the other one was to have a meeting with the Liquor Commission to discuss what is the most effective and prudent way to move forward on this issue. As you are well aware, the RSA around licensing for alcohol in this state is complex...restaurants essentially can serve alcohol in this state. Then the question becomes what's a restaurant and what's not a restaurant. We think it's important at the ATOD Task Force to support the city's efforts to look at existing laws and how to enforce those laws to protect the young people and do what's best for business in the City of Manchester but when we went to the Liquor Commission we also had questions about looking at the supply side of the issue. It was at that place...is there a way to alter the law to look at the law that makes it more difficult for these establishments that do provide a public nuisance to open up? They gave us three very specific suggestions that we brought back to the City. One, as Alderman Gatsas said, is to look at our data and make sure that is specific. The second one was to look at all of the things that exist in City ordinance already and make sure that before these establishments open they are in complete compliance with what exists already and finally to take a look at what we were doing in the City to respond to the nuisance law that is on the books, so on and so forth. I know I am going on but just to conclude I think that what we are trying to do is look at this responsibly from all levels.

Mayor Baines stated and the thing that we are trying to do is gather not verbal reports but accurate concrete information so then we can come to the Board with actual statistics and lay out a strategy to go at it. That is why we have been taking the time to gather the information and gather the facts so that no one can argue with us about what the facts are.

Alderman Guinta stated I appreciate that clarification. It still doesn't answer my question though. The question I have is do we know if the problem is 18+ clubs or are kids getting into these clubs on non 18+ nights? I suspect there are probably both of those problems.

Mr. Boldin responded there is not a yes or no answer to that question. What I believe as a professional who has worked in the field of alcohol and drugs for 20 years is this. There is a tremendous amount of data out there that talks about alcohol density. The number of places that you serve alcohol in the City and how that relates directly to the crime rate and to underage drinking. We believe that clubs that have an under 21 night attract young people there who are not legally able to drink and that increases the likelihood of problems in and around those clubs.

Alderman Guinta stated it stands to reason that if there is an 18+ night and there is someone in that club who is between 18 and 21 who is going to get served but I suspect there is also a secondary problem where people under 21 are getting into clubs on non 18+ nights.

Mr. Boldin replied yes. All of those things, I think, add to the tapestry, which creates an issue for us.

Alderman Guinta asked is there legislation pending to address 18+ clubs.

Mayor Baines stated nothing right now. Again, that is why we are taking our time. It is a very complex issue because what you define as clubs? A number of them are defined as restaurants. It is a very complex...

Alderman Gatsas interjected your Honor there is a piece of legislation in there that talks about not using water as meeting the standards of food consumption.

Alderman Guinta asked but there is nothing...the clarification I am trying to get is is there any legislation at the State level that is pending for the upcoming session.

Alderman Gatsas answered yes and that is the one.

Alderman Guinta asked and that has not been revoked. It is still moving forward?

Alderman Gatsas answered yes.

Mayor Baines stated Marty before you sit down I think proper accolades should be given to you and all of the people who work for all of those different agencies that were showcased at that press conference a few weeks ago. As you know, Manchester it said in the *Union Leader* it was the Office of Youth Services that was recognized but that was not accurate. It was the City of Manchester and I know a lot of organizations may have read that and said you know...

Mr. Boldin interjected we followed-up with those organizations.

Mayor Baines stated that was unfortunate. It was the City of Manchester that was recognized by Colin Powell's Foundation "America's Promise" as one of the 100 top kid friendly cities in America. Marty and a number of people from different agencies got together and pulled together a very comprehensive application. Marty it might be a good idea if the thing you sent to me...we will send it out to all of the Aldermen so they can read through all of the different organizations that are working for youth in our community. I know you and your organization and all of the people that work with you coordinated that effort and there will be a delegation going to Washington November 2 or somewhere around there to receive the award. I want to publicly congratulate all of the organizations that are represented through the Office of Youth Services and all of the affiliated organizations for a job well done.

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Ratify and Confirm Poll Conducted

- A. On September 13, 2005 approving changing the date and time of the public hearing on the Storm Water Ordinance from Monday, September 26, 2005 at 5:30 PM to Tuesday, October 4, 2005 at 5:30 PM.

Approve under supervision of the Department of Highways

- B. PSNH Pole Petition #11-1089 located on Hillcrest Avenue;
PSNH Pole Petition #11-1090 located on Eastern Avenue; and
PSNH Pole Petition #11-1091 located on Bodwell Road.

Informational – to be Received and Filed

- C. Communication from Leo R. Bernier, City Clerk, advising of the receipt of an FY2006 Moose Plate Conservation Grant in the amount of \$8,177 from the NH State Library to restore the earliest records of the Town and City of Manchester, 1836-1847.
- D. Copy of a communication from the NH Department of Environmental Services to Ms. Jane Beaulieu advising her of her appointment to a 3-year term on the Piscataquog River Local Advisory Committee.

Accept Funds and Remand for the Purpose Intended

- E. Communication from Lisa Sorenson, Administrative Services Manager, advising of the receipt of funds in the amount of \$1,553.00 for the Manchester Art Fund.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

F. Resolutions:

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Fifty Eight Thousand Five Hundred Eighty Seven Dollars (\$258,587) for the 2004 CIP 210704 Public Health Preparedness Program.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Five Hundred Thousand Dollars (\$500,000) for FY2004 CIP 612504 Old Wellington Road Apartments Project.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for FY2005 CIP 510005 Parks Facilities Improvement Program.”

“Authorizing the Finance Officer to effect a transfer of Ten Thousand Dollars (\$10,000) for the 2005 CIP 510005 Parks Facilities Improvement Program.”

“Amending the FY2006 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Seven Thousand Two Hundred Seven Dollars Sixty Seven Cents (\$27,207.67) for FY2006 CIP 411606 2005 Homeland Security Grant Program.”

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

- G.** Advising that it has ratified and confirmed a poll conducted July 29, 2005 approving attendance of City Clerk staff at the New Hampshire City & Town Clerk’s Annual Conference held in North Conway, NH from September 7-9, 2005.
(Unanimous vote)
- I.** Advising that it has accepted the City’s unaudited Monthly Financial Statements for the two months ended August 31, 2005 for FY2006 submitted by the Finance Department, and is forwarding same to the Board for informational purposes.
(Unanimous vote)
- J.** Advising that it has accepted the following Finance Department reports:
- a) department legend;
 - b) open invoice report over 90 days by fund;
 - c) open invoice report all invoices for interdepartmental billings only;
 - d) open invoice report all invoices due from the School Dept. only;
 - e) listing of invoices submitted to City Solicitor for legal determination; and
 - f) accounts receivable summary
- and is forwarding same to the Board for informational purposes.
(Unanimous vote)

COMMITTEE ON COMMUNITY IMPROVEMENT

- K.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$258,587 for 2004 CIP 210704 Public Health Preparedness Program, and for such purpose a resolution and budget authorization has been submitted.
(Unanimous vote)
- L.** Recommending that the Board authorize transfer and expenditure of funds in the amount of \$500,000 for FY2004 CIP 612504 Old Wellington Road Apartments Project, and for such purpose a resolution and budget authorization has been submitted.
(Unanimous vote)
- M.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$27,207.67 for FY2006 CIP 411606 2005 Homeland Security Grant Program, and for such purpose a resolution and budget authorization has been submitted.
(Unanimous vote)
- N.** Recommending that the Board authorize transfer and expenditure of funds in the amount of \$10,000 from FY2005 CIP 710205 Public Works Infrastructure to FY2005 CIP 510005 Park Facilities Improvement Program, and for such purpose resolutions and budget authorizations have been submitted.
(Unanimous vote)
- O.** Recommending that requests for sewer abatements as follows be granted and approved as recommended by the Environmental Protection Division:
- 836-840 Candia Road in the amount of \$1,393.96
 - 42 Stearns Street in the amount of \$497.55
 - 229-233 Wilson Street in the amount of \$370.45
- (Unanimous vote)*
- P.** Advising that they have authorized the Police Department to submit a letter of intent for a \$137,378 grant to conduct a weapons of mass destruction exercise at the Manchester Airport during the spring of 2006.
(Unanimous vote)
- Q.** Advising that it has approved a request from Bruce Thomas of the Highway Department to complete work on two projects (Greek Church Driveway and President Road #185) as part of the City's Chronic Drain Program.
(Unanimous vote)
- R.** Advising that they have approved a request from the Highway Department to replace a 1990 X10 Blazer with a surplus U.S. government vehicle with FY06 MER funds.
(Unanimous vote)

COMMITTEE ON HUMAN RESOURCES/INSURANCE

- S.** Recommending that the Office of the City Clerk continue hiring temporary per diem individuals for elections and peak demand periods by charging related costs to temporary salaries rather than contract manpower to meet IRS regulations.
(Unanimous vote)

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- U.** Recommending that a request from Alderman Porter to install a raised island on Cohas Avenue at Island Pond Road be approved. The Committee advises that this item has been referred to the Committee on Community Improvement for funding (estimated at \$1,500).
(Unanimous vote)

- V. Recommending that a flashing signal be installed at the intersection of South Beech and Gold Streets, and further advises that they have referred this item to the Committee on Community Improvement for funding.
(Unanimous vote)
- W. Recommending that regulations governing standing, stopping, parking and operations of vehicles be adopted and put into effect when duly advertised and posted.
(Unanimous vote)
- X. Advising that eight additional parking permits for the Middle Street parking lot have been approved and that no more permits will be issued for that parking lot pending receipt of the parking study.
(Unanimous vote)

SPECIAL COMMITTEE ON SOLID WASTE ACTIVITIES

- Z. Advising that it has approved Ordinance:
“Amending Sections 33.024, 33.025 & 33.026 (Solid Waste Compliance Officer) of the Code of Ordinances of the City of Manchester.”
providing for the establishment of a new class specification, Solid Waste Compliance Officer, and is recommending same be referred to the Committee on Bills on Second Reading for technical review.
(Aldermen Roy, Thibault, Forest and O’Neil voted yea; Alderman Guinta voted nay.)

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O’NEIL, DULY SECONDED BY ALDERMAN SMITH, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

Report of the Committee on Accounts, Enrollment and Revenue Administration:

- H. Advising that it has accepted the following Board of Assessor’s report:
- a) update of tax base;
 - b) status of overlay;
 - c) valuation summary;
 - d) status of tax appeals; and
 - e) status of exemptions and payment in lieu of taxes.
- and is forwarding same to the Board for informational purposes.
(Unanimous vote)

Alderman Porter stated I just have a comment. It really doesn’t have anything to do with the report that was submitted but I remember...I don’t remember when it was discontinued but awhile back I know the Assessors since I started on the Board in 1981 had submitted a copy of another report, which was the abatements to the Committee on Accounts on a monthly basis. It doesn’t have to be monthly but possibly quarterly. The information on there was simply map and lot, the name of the owner of the property, the address of the property, the prior assessment, the adjusted assessment and the amount of the abatement. This is really for informational purposes to the Committee on Accounts and anyone else who obviously would want to have a copy of it to see what is going on with not only properties in general but individual properties. I think it is also an opportunity for the Assessors as it was for us to disclose exactly what was happening on an month to month basis and I think it is good for the public to know that these things are being done in a public forum. I am not looking for a

vote, I just think that perhaps this could be a directive or suggestion or whatever to the Assessors to provide that information. I did speak briefly with Tom Nichols at the last meeting and brought it up. I did speak with...I didn't speak with Steve Tellier but I did speak with Steve Hamilton. It is a simple report that goes to the Committee on Accounts. I think quarterly would be certain enough.

Alderman Porter moved to accept, receive and adopt the report. Alderman Roy duly seconded the motion.

Alderman Gatsas stated I have a question for the Assessors. How close is this to the number that we used for our budget?

Stephan Hamilton, Assessor, stated it is very close to the number that we had projected initially.

Alderman Gatsas asked is it more or less.

Mr. Hamilton answered I believe...I left my copy back at the bench but I believe it is slightly less. I'll go get it.

Alderman Gatsas stated the reason I am asking is because I read in the paper that we are getting \$1 million back from the School District and the school tax is going to be less so I just want to see if maybe we are going to be at a minus tax rate.

Mr. Hamilton responded we are still in the process of making final adjustments to the tax base.

Mayor Baines stated there will be changes right up until we go to the DRA in November.

Mr. Hamilton answered right and really until we file the MS-1 report with the Department of Revenue, up until the minute before we run that report we will be making the final adjustments. We are right at the \$65 million +/- a few. It looks like we are going to be probably + \$2 million or so just in the initial projection. We are very close on the number.

Alderman Gatsas asked when does Finance think they are going to be ready to go to Concord.

Kevin Clougherty, Finance Officer, stated we expect that we will be up there sometime in early November. As soon as we get the information from the School District and as soon as we get the information from the Assessors then we pull it together. It takes us a few days to pull it together and it is usually early to mid November when we set the rate.

Alderman Gatsas asked you haven't got the numbers from the School District yet. They reported them to the newspaper.

Mr. Clougherty answered usually what happens with the School District is they meet with their auditors, which is what I think they were talking about last night and once they have their report from their auditors they complete the MS forms and transmit them so they should be forthcoming in the next few weeks.

Alderman Gatsas asked will you forward a copy of that to us please.

Mr. Clougherty answered yes.

Mayor Baines called for a vote on the motion to accept the report. There being none opposed, the motion carried.

Report of the Committee on Human Resources/Insurance:

T. Advising that it has approved Ordinance:

“Amending Sections 33.024, 33.025 & 33.026 (Solid Waste Compliance Officer) of the Code of Ordinances of the City of Manchester.”

providing for the establishment of a new class specification, Solid Waste Compliance Officer, and is recommending same be referred to the Committee on Bills on Second Reading for technical review. The Committee further recommends that the issue of enforcement authority for this position be worked out with the Solicitor's Office and City staff.

(Aldermen Shea, Sysyn, Garrity and Forest voted yea; Alderman DeVries voted nay.)

Alderman Shea stated this has to do with a Solid Waste Compliance Officer and in discussion with Frank Thomas today which was raised by and I thank the Alderman for doing that, Alderman Forest, he asked me to get in touch with you, Frank, and I thank him for that. We certainly want a Solid Waste Compliance Officer to be accepted with a little caveat that this particular individual or a person not start until maybe the first of April of next year. As we all know, we have to be very careful about all of the budgets whether it be Police, whether it be Fire, whether it be Highway, whether it be Traffic or whether it be Health and others because of the unanticipated consequences of the oil problem so Frank has indicated that he can live with that particular caveat, your Honor, and that would be something that when it goes before Bills on Second Reading that that should be inserted. So, I'd like that to be approved and move it onto them, your Honor.

Alderman Thibault duly seconded the motion.

Alderman Gatsas stated we're back to establishing positions some three months after a budget's closed. I would think that somebody would have come forward during the budget cycle and told us they wanted another position. Here we are in a time that gas rates are going up, heating costs are going up, electricity is going to go up and we're starting new positions and I certainly don't believe that this is a position that is absolutely necessary for

the city functioning. I just don't understand it and maybe Mr. Thomas can explain to me how this city has gotten along for as many years as it's gotten along without a Solid Waste Compliance Officer.

Mayor Baines called up Mr. Thomas.

Mr. Frank Thomas, Public Works Director, stated this request wasn't developed by the Highway Department, it was brought forward by various Aldermen. There was a group of Aldermen and the Mayor that took a look at various neighborhoods as part of the Mayor's initiative to revitalize some of the areas of the city. Issues with solid waste, litter is a problem that's been out there. It does fall under the jurisdiction of Highway, Health and even Housing Code, however, none of these departments have a full-time enforcement person and it was the thought of various Aldermen after taking a look at these areas that we need to put more of a focus on enforcement and that's the way this position was generated. We certainly support that because I think it would be a benefit to the city to have a full-time enforcement person just focusing in on litter, trash type of issues. As Alderman Shea suggested it has not been funded in my operating budget. I made it very clear to the Aldermen that I don't have those funds available as we speak now knowing that we're going into a winter season, knowing that fuel costs are up, knowing that salt will probably go up again and I suggested to the Alderman if there was still the interest by the Board of Mayor and Aldermen come springtime to implement that position and if we have a mild winter and I have funds in my budget that could be a way we kick it off and going into the next budget cycle we could then consider it as a permanent full-time funded position.

Mayor Baines stated so we're not going to proceed with it until it's determined whether there are funds available within your budget to do it.

Mr. Thomas stated that is correct.

Alderman Gatsas stated so Frank you didn't request this...maybe the Aldermen should have found it within their own line item budget in the Aldermanic budget to fund a position that they should have talked about during the budget cycle because if they believe that we should be spending the money they should be bringing it forward and I don't know who those Aldermen are and we shouldn't be doing it in a time when things are very tight.

Mr. Thomas stated I think everybody's in agreement with you but I don't think this position was contemplated during the budget process. It was contemplated after the Mayor developed his initiative to revitalize some of these areas and going through these areas it was quite obvious that we do have a problem not only in these areas but throughout the city enforcing...

Alderman Gatsas asked how have you enforced it before?

Mr. Thomas replied when we get the complaints say from you, from another Alderman we will send a person out to take pictures and there's a whole routine that we have to follow but we don't do that on a regular basis. This would be a proactive position.

Alderman Roy stated as Chairman of the Solid Waste Committee I just want to address a couple of issues. This is just one part of an on-going process of redoing our recycling, redoing our yard waste program, adding some compliance to increase quality of life and it did come out of this Board as part of the problems that Aldermen were seeing in their neighborhoods especially some of the inner-city neighborhoods. So, this is a reaction to this Board...I appreciate Frank for taking some heat on this but it was not something that was requested by the department, it was something that was pushed on the department by the Aldermanic Board and made it's way through the Solid Waste Committee but it is not a position where filling it is not something we need to fund today. It's something that we're going ahead and putting on the books so that if monies are available possibly in the spring, possibly next year then we have a position, we've already been proactive and then we can address whether it's a priority to fill that position with dollars available. But, as of right now, we're just putting the job on the books, Frank has a directive to not hire and not advertise it and when we have available funds it will be filled at that point.

Alderman Osborne stated I think I was one of the first Aldermen that brought this forward. Back on May 23, 2005 if the Aldermen would look in their agendas under Z you can see my letter here and also back on May 23, 2005 I met and called it together with Tom Arnold, Bob Roy, Bob Neveu, Joanne McLaughlin, Al Kula, Bill from Health and so on...but, anyway I have a big problem in my ward with this maybe Ward 1 and Ward 2 and certain wards don't have the problems that Ward 5, 7, 4 and some of the west side in Ward 10...whatever it might be have. So, it's an easy thing to say but when you get calls every day of the week with garbage smelling where people next door can't even go out their door and I went there physically myself to remove the garbage and put it out to the street...so I know what's going on in my ward and it's a position that I think is well needed because basically this will pay for itself. I think it takes a lot of emphasis off of the Highway Department by having others from the Highway Department trying to take care of this. I think this position will earn itself in the long run, so I will have to be one of the culprits to this thing and I think it should go forward one time or another...maybe April's a good time because it's wintertime and we can't smell it then, I guess, but I think in April it should be implemented and this is the way I feel. Thank you.

Mayor Baines stated I would also invite Aldermen that have some doubts about this and would like further evidence is to go with Alderman Osborne and Alderman Shea and go for a walk through some of those neighborhoods and see how much this would be tolerated by the residents of some of the wards that you represent and understand the burdens that people are placed under especially with children...these kind of intolerable situations.

Alderman DeVries stated I'm certainly glad we moved this in the right direction because if you recall I was the one who was not able to support you going through Human Resources and it was strictly because I thought our priorities had to be first taking care of other budget issues that we may or may not have this winter. That being said I just want to correct because I've heard sentiment said out there that this will be in some way a revenue producer and I understand that there are fines associated with this. Though having been involved with other issues like the improper disposal of tires and other things that I used to see...building violations on the Fire Department...very, very difficult to collect any kind of fines or revenues from absentee landlords. I just wanted to hear from you...do you anticipate this to be a revenue maker for your department?

Mr. Thomas replied definitely not...that is not the intent of this position. We're not going to be going out trying to issue citations just for the sake of generating fines and revenue. The main focus of this position would be to work with the property owner to try to resolve these issues so that we don't have to issue a fine.

Alderman DeVries stated the other piece that I don't really think has been fully discussed is that there's a second piece to the intent here that needs to be fulfilled in order for this to become a useful position. This will help us with coming up with new legislation or ordinances that is necessary...state, local, whatever it would be also helping us tracking owners and making sure that there is compliance to those new legislations but there still has to be the work-a-bees out in the field actually picking up what is left there...still needs to be the individuals that will go around as they did when they had the walk through cleaning up the lots where the litter has been blown to. So, I just don't want the Aldermen to think that their job is done by creating this one position. The piece of the pie as Alderman Roy has stated...there are other pieces that need to be filled before we can truly have addressed the issue.

Mr. Thomas stated that's correct, that's part of the long-range plan that was recommended to the Aldermanic Solid Waste Committee and as you mentioned it's only a part of the puzzle, revised ordinances, increased fines, potentially new ordinances...that will be all part of the entire program along with potentially new initiatives for recycling, etc.

Alderman Guinta stated I'm on the Solid Waste Committee and I thought there was testimony at the most recent meeting that said there's already a fine system in place. Is that accurate?

Mr. Thomas replied there is a fine system in place but quite frankly I don't think it's adequate. It really doesn't singe the violator. The reason why I say that is because there is a notification process...there's a warning process, there's a follow-up process and part of what we will be looking at is potentially increasing those fines as we go along but there hasn't

been anything recommended yet to the Solid Waste Committee or to the Board of Mayor and Aldermen.

Alderman Guinta stated I think at the Solid Waste Committee there was at least a discussion, I believe Alderman Roy...but, there was the general feeling to increase the fees...what I guess I question is if there is already a fine system in place and there's already a discussion to increase those fines why don't we have the existing personnel to dispense with those fines, why do we need to hire an actual individual?

Mr. Thomas replied because the people that are addressing the complaints are not doing it on a full-time basis, they're running crews, they're overseeing paving operations...quite frankly, right now Mary Sysyn, Alderman Thibault have come to us on numerous occasions with problems. I take my Assistant Chief of Highway Operations...I have to send him out, he has to view it, he documents it by taking a picture that has a date and time, then we have to track down who the property owner is. Many times we try to contact that property owner and if we don't then we have to go through official mailings, returns receipt requested...that type of thing that takes quite a bit of time. So, I'm taking a very highly paid person that should be out overseeing all my different construction crews and other activities out on the road and taking them away to address a complaint and obviously when we receive a complain from an Alderman or a constituent we want to address it but we shouldn't be sending out a person of that caliber.

Alderman Guinta asked is there anybody else in your department that could address those complaints rather than a highly paid person?

Mr. Thomas replied not really. Keep in mind my staff level has not gone up and keep in mind that the Board of Mayor and Aldermen on occasion keep giving us new duties and you can only spread a limited number of people so far and again I think that this is a worthwhile area to get into but I can't take away a person that's driving a front end loader and say go out and enforce on a daily basis being proactive trash and litter issues. I don't have that personnel.

Alderman Guinta stated you said that currently you don't have the funds but you feel that you may depending on...

Mr. Thomas stated as you know my budget is very weather sensitive. If I have a mild winter I will have surplus funds come this spring that I'll feel comfortable that I could allocate to this person's salary.

Alderman Guinta asked isn't that part of the reason that in our contingency budget this year we've doubled it, haven't we as a result of possible concerns that you enumerated during the budget process.

Mayor Baines stated not only that but we were concerned about the bidding for recycling which is why we boosted up contingency to help with that.

Alderman Shea asked to move the question.

Mayor Baines stated let's move to Alderman Forest and then I have one other person and then we can close this out.

Alderman Forest stated it's more of a comment. Alderman DeVries, myself and subsequently Mark Roy have been Chairman of the Solid Waste Committee. Over the years and it's been two years that we've been on it we've talked about yard waste, recycling and all that. For two years we heard complaints about Waste Management and I was probably one of the biggest complainers about them not picking it up. We knew their contract was expiring this year, we consulted with Frank Thomas...some of his staff, Mark Roy and I and a few of the Aldermen. We consulted with CLD; we did a brainstorming a few months ago...Frank did a presentation about our short-term goals and our long-term goals. This Compliance Officer was part of the long-term and we agreed that we needed to renew a contract. Frank explained that our yard waste and solid waste will be 40 to 60 percent more this year or could be. The Compliance Officer was a long-term idea of the Solid Waste Committee and a few Aldermen...Alderman Osborne did send a letter in May or June and it sort of pressed the position up and I feel that the position should be there...it was a long-term one...I agree what we should do is pass the position because Frank didn't put in for this position this year...add the amendment that Alderman Shea says pass the position, don't start it till April and then Frank can put it in his budget when he applies for the 2007 budget.

Alderman Gatsas asked Frank is this Compliance Officer the first step toward Bag and Tag?

Mr. Thomas replied not Bag and Tag is not on the horizon but it is something the city should potentially consider down the road but we are going to be potentially bringing in some new...

Alderman Gatsas stated that was part of the long-term plan that I remember you presented to this Solid Waste Committee, it was part of that long-term plan. I just wanted to make sure that this wasn't the first step with the camel's nose under the tent for Bag and Tag.

Mr. Thomas stated definitely not, Alderman.

Mayor Baines stated I also want to remind people that for every 10% you increase recycling you reduce your costs approximately \$300,000. So, sometime we're going to run out of a place to bring this stuff too but it's not related to.

Mayor Baines called for a vote on the motion. The motion carried.

Alderman Gatsas interjected a roll call.

Mayor Baines asked who wants to be recorded against. Alderman Gatsas and Alderman Guinta were duly recorded in opposition.

Alderman Gatsas stated I called for a roll call, your Honor.

Mayor Baines stated we can just have people recorded...it saves time and the same thing is accomplished. There's just less drama I guess.

Alderman Gatsas interjected your Honor I believe the rules...if an Alderman requests a roll call it's up to the Board, up to you the presiding officer to acknowledge the roll call.

Mayor Baines stated please proceed to item Y.

Alderman Gatsas stated your Honor.

Mayor Baines stated we just took a vote and people are recorded.

- Report of the Special Committee on Riverfront Activities and Baseball:**
- Y. Advising that in accordance with the City's obligation under Section 13.2 of the Amended and Restated Management and Operations Agreement between the City and 6 to 4 to 3, LLC, they have approved the transfer of the New Hampshire Fisher Cats to NH Triple Play, LLC understanding the exception of the obligations set forth in Section 8.1 and on the condition that the parties meet all of the obligations set forth by the Eastern League.
(Unanimous vote)

Alderman Gatsas stated I brought this issue out only because there was another motion made that night to make sure that we were going to hear from the Finance Officer and the Solicitor in regards to the 60% payment. I haven't heard anything and I don't know if the Chairman of that Committee has heard anything or if they have disbursed money.

Alderman Lopez stated I haven't been officially informed by either one but Kevin Clougherty is here and maybe he can enlighten us.

Mr. Clougherty stated Mayor we have not disbursed anything. The agreement was left with the Committee that there are two steps that have to be accomplished. First we have to make sure that the 60% is completed. The Building Department is working with the developers and once the Building Department is satisfied that the threshold has been met then we can go ahead with the disbursement. The disbursement piece we agreed to bring back before the Committee. We said that we would do a calculation and show how that calculation related to

the contract and provide that to the Committee. We are not at that point. As soon as we get the notification from the Building Commissioner we will notify the Chairman and I expect it probably will not be until at the earliest next week. Tom Clark is out this week and will be back next week. That is where the issue rests.

Mayor Baines stated the motion we need is to just accept this report.

Alderman Lopez moved to accept, receive and adopt the report. Alderman DeVries duly seconded the motion.

Alderman Shea stated I don't want to prolong the meeting anymore than it has already been prolonged but Kevin could you help in terms of where the hotel is at this time just briefly. I know I got an invitation to go down and view a townhouse, which my wife is very anxious to go down and visit. Where are we in this process quickly? Are we 5%, 10%, 20% along the way?

Mr. Clougherty responded in order for us to release the letters of credit they have to be 60%. That 60% is defined in the contract specifically in terms of certain weatherproofing...

Alderman Shea interjected okay so that is 60% that is fine.

Mr. Clougherty stated that is what the Building Commissioner is certifying now.

Alderman Shea asked and the townhouses.

Mr. Clougherty answered there were three pieces to the letter of credit for the residential. There was \$500,000 for Tower I, \$500,000 for Tower II and \$600,000 for the townhouses, which consisted of a couple of pieces. They are asking that a portion of that be released because they have completed 12 townhouses.

Mayor Baines called for a vote on the motion to accept the report. There being none opposed, the motion carried.

Communication from Mark Isenberg submitting his resignation as a member of the Manchester Planning Board.

On motion of Alderman Garrity, duly seconded by Alderman Sysyn, it was voted to accept Mark Isenberg's resignation as a member of the Manchester Planning Board with regrets.

Nominations to be presented by Mayor Baines, if available.

Planning Board

Steven B. Hinchey to fill the unexpired term of Mark Isenberg, term to expire May 1, 2006.

Don Veilleux to fill the position as an ex-officio member of the Board replacing Ron Ludwig.

Conduct Board

Doug Weners to succeed himself, term to expire October 1, 2008

Southern NH Planning Commission

Alderman Daniel O'Neil to serve as a Manchester representative on the Commission.

Mayor Baines stated as per the rules of the Board, these nominations will layover until the next meeting.

Confirmation of the nomination of Carol A. Bednarowski to succeed Robert Christy as a member of the Board of Health, term to expire July 1, 2008.

On motion of Alderman Forest, duly seconded by Alderman Porter, it was voted to confirm the nomination of Carol A. Bednarowski as presented.

On motion of Alderman Thibault, duly seconded by Alderman Osborne, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented recommending that Resolutions:

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Fifty Eight Thousand Five Hundred Eighty Seven Dollars (\$258,587) for the 2004 CIP 210704 Public Health Preparedness Program.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Five Hundred Thousand Dollars (\$500,000) for FY2004 CIP 612504 Old Wellington Road Apartments Project.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for FY2005 CIP 510005 Parks Facilities Improvement Program.”

“Authorizing the Finance Officer to effect a transfer of Ten Thousand Dollars (\$10,000) for the 2005 CIP 510005 Parks Facilities Improvement Program.”

“Amending the FY2006 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Seven Thousand Two Hundred Seven Dollars Sixty Seven Cents (\$27,207.67) for FY2006 CIP 411606 2005 Homeland Security Grant Program.”

ought to pass and be enrolled.
(Unanimous vote)

Alderman Shea stated I have a question for Bob MacKenzie. I noticed, Bob, in 710205 down at the bottom where it says comments it says “Hands Across the Merrimack.” I wondered where the project “Hands Across the Merrimack” might be at this stage. Is this money added to it or subtracted from it or something that we already except Alderman Gatsas and myself have approved? Where are we going here and has this project raised any money?

Robert MacKenzie, Planning Director, stated I know that they have raised some money and they are closing in at this point from what I understand on making this kind of a magic number to trigger the final design and construction and I believe that is \$2.3 million. They are as I understand it closing in on that final amount. They have raised quite a bit of the funds but I don’t have the exact number tonight.

Alderman Shea stated I am under the understanding that we have been very generous as a community in this project. We are not going to contribute any more. We will not be asked to contribute any more is that correct? I mean if they can’t come up with the amount of money that they are supposed to come up with are we going to be asked to bail them out?

Mr. MacKenzie responded I think it is their understanding that they have to raise the money in order for the project to continue.

Alderman Shea stated one of the problem in other projects is that once a project starts and it is kind of going along pretty well but they are not able to get over the hump, somehow or another they come and throw themselves at the mercy of the court and they say you know we really would like to do this and if we don’t do this and it is halfway through we are going to lose so much momentum and money and could you help us out. I think that was our concern and I speak for myself and maybe Alderman Gatsas as well because so often we have been stung by the beetle. At the end of the day we are the ones that have to carry the ball and we are trying to talk about funding Compliance Officers here and there and so forth and obviously the pot is kind of dry at this time. I wondered if, and I know the Mayor is motioning me to cut it short but I am just wondering whether or not we are going to be able to say no to them and they have to progress at a pace.

Alderman Guinta asked on 411606 2005 Homeland Security Grant Program for \$27,200 can anyone tell me specifically what that grant is for.

Richard Tracy, Police Captain, stated that has to do with the grant that we receive annually. I believe it is the third year we will receive that. It allows us to upgrade our tactical team equipment and out of the \$27,000, \$21,000 will go towards equipment and \$6,000 goes towards training. In the past couple of years we have been able to outfit our entire team with the Level 3 best of the line ballistic vests. We have secured a thermal imager for assistance with nighttime searching and we have also secured a highly advanced video pole camera that

allows us to search for armed suspects or dangerous people in dark corners of attics and basements without putting our people in harm's way.

Alderman Lopez moved to accept, receive and adopt the report of the Committee on Finance. Alderman Forest duly seconded the motion. There being none opposed, the motion carried.

Report of the Committee on Community Improvement recommending that a request for funding in the amount of \$3,000 for a flashing light at the intersection of South Beech and Gold Streets be approved. The Committee notes that they have instructed the Planning Director to find funds for this project.

(Unanimous vote)

(Note: Communication from the Director of Planning recommending \$3,000 be utilized from the South Willow Street Improvements Program CIP 7.10227 subject to confirmation from the Traffic Department that the intersection warrants these signals and concurrence from the Planning Board for the use of the funds for this project enclosed.)

Alderman Garrity moved to accept the report and approve the recommendation of the Planning Director. Alderman Shea duly seconded the motion.

Alderman DeVries stated my question would be for the Planning Director. The utilization of the South Willow Street Improvements Program, wouldn't that go through the Planning Board? Don't they have the jurisdiction over those funds?

Mr. MacKenzie responded yes and I did indicate in my letter that they would have to take an action on that request.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Report of the Committee on Traffic recommending that Ordinance:

“Amending Section 70.55 Residential Permit Parking, of the Code of Ordinances of the City of Manchester by adding a Residential Parking Permit Zone #6 and by adding a new Section (E) (2A) regarding Residential Permit Parking for Full Time Students.”

be approved. The Committee further recommends that the rules be suspended and that the Ordinance be adopted October 4, 2005.

(Unanimous vote)

Alderman Forest moved to accept, receive and adopt the report of the Committee on Traffic/Public Safety. Alderman Sysyn duly seconded the motion.

Deputy City Clerk Johnson stated the Committee on Traffic when it had met had asked the Clerk's Office to work with the Solicitor's Office and the Police Department to determine some changes to this ordinance. In addition to that, there was notification to our department that there were approximately eight residences that are actually fronting on Canal Street that are no longer part of the accepted part because Canal Street is locked off in the Amoskeag section. So what we have done is we are proposing an amendment to the Committee's report

to also include an additional change to the ordinance and I would like to get that on record and have it amended now.

Alderman Roy moved to amend the report to change the Zone #1 District under 70.55 (D)(1A) to include after Canal Street “except for 633, 635, 641, 643, 647, 649, 657 and 659 Canal Street.” Alderman Guinta duly seconded the motion.

Deputy City Clerk Johnson stated that includes the area between Hollis and Kidder on Canal where it fronts Canal.

Alderman Guinta asked does it include the area up to West Merrimack.

Deputy City Clerk Johnson answered these were the addresses that were specifically given to me by the person who made the call. There is no other address that was given to us.

Alderman Guinta stated on the corner of Canal and West Merrimack Street there is one address.

Deputy City Clerk Johnson asked is that also part of Zone #1.

Alderman Guinta answered yes.

Deputy City Clerk Johnson stated we would just amend the ordinance to include that address as well and we will get that address included in the final copy.

Mayor Baines called for a vote on the amendment to the report. There being none opposed, the motion carried.

Mayor Baines called for a vote on the motion to accept, receive and adopt the report as amended. There being none opposed, the motion carried.

On motion of Alderman Sysyn, duly seconded by Alderman Shea it was voted to suspend the rules and place the Ordinance on its final reading by title only without referral to the Committees on Bills on Second Reading or Accounts, Enrollment and Revenue Administration.

On motion of Alderman Lopez, duly seconded by Alderman DeVries it was voted to read by title only, and it was so done.

Ordinance:

“Amending Section 70.55 Residential Permit Parking, of the Code of Ordinances of the City of Manchester by adding a Residential Parking Permit Zone #6 and by adding a new Section (E) (2A) regarding Residential Permit Parking for Full Time Students.”

Deputy City Clerk Johnson noted that this ordinance would include the amendments that were just made.

This Ordinance have had its final reading by title only, on motion of Alderman Sysyn, duly seconded by Alderman DeVries it was voted that it pass and be Ordained.

Mayor Baines stated I want to thank the Committee on Traffic/Public Safety and all of the staff that came together to take care of this situation, which left unresolved would not have been in the best interest for the downtown of the City of Manchester. Thank you to everyone who cooperated and everyone involved with this.

Ordinances:

“Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor.”

“Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer.”

“Amending Sections 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer.”

“Repealing Sections 35.107 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.025 (Community Health Nurse) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees.”

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

On motion of Alderman Garrity, duly seconded by Alderman, it was voted to dispense with the reading by titles only.

These Ordinance having had their second reading, Alderman Shea moved on passing same to be enrolled. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

On motion of Alderman Osborne, duly seconded by Alderman DeVries, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Baines called the meeting back to order.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented advising that Ordinances:

“Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor.”

“Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer.”

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“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

are properly enrolled.
(Unanimous vote)

Alderman Smith moved to accept, receive and adopt the report of the Committee on Accounts, Enrollment and Revenue Administration. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Communication from Leo R. Bernier, City Clerk, submitting official results of the City of Manchester Non-Partisan Municipal Primary Election held on September 20, 2005.

On motion of Alderman Smith, duly seconded by Alderman Sysyn it was voted to accept the official results of the Non-Partisan Municipal Primary Election.

Communication from Leo R. Bernier, City Clerk, requesting the Board set polling hours for the City of Manchester Non-Partisan Municipal General Election scheduled for November 8, 2005, from 6 AM until 7 PM.

On motion of Alderman Osborne, duly seconded by Alderman DeVries it was voted to set the polling hours for the City of Manchester Non-Partisan Municipal General Election on November 8, 2005 from 6 AM to 7 PM.

Mayor Baines stated I want to make a comment about the Ward 1 polling place. I would like us to put a special effort in the ward and I know that Leo Bernier has toured the polling place but as I go around in the wards campaigning I am hearing a lot of concerns about Ward 1 and I hope we can take a very close look at it and make it as efficient as possible to get in and out of the polling place.

Clerk Bernier responded we are going to make some positive changes. As you may have noticed the lighting needs to be looked at and also other areas like the elevator, etc. All of those issues will be addressed before the November election.

Communication from Deputy City Solicitor Arnold seeking authorization to enter into music license agreements with SESAC and the American Society of Composers, Authors & Publishers and expend funds from civic contributions totaling \$1,881.00 for such licenses, as outlined herein.

Mayor Baines stated Tom maybe you could explain this to the Board.

Deputy City Solicitor Arnold stated certainly. We've been contacted by a couple of organizations listed in this item regarding the necessity of purchasing license to avoid copyright infringements and various performances around town. For instance, the replaying of radio stations at the ice arenas, the performance of copyrighted music, for instance, at the Library when they have concerts or the school bands...that type of activity. We were approached some time ago by these two organizations, however, there weren't funds in anybody's budget to pay for these licenses. Those funds were put according to the Finance Department into the civic contributions account during the last budget process.

Mayor Baines stated so that would include musical performances here playing music perhaps at holiday time.

Deputy City Solicitor Arnold stated it would be a city-wide license, yes.

Mayor Baines stated otherwise you can't do it.

Alderman Roy stated Tom in your letter line 2, first paragraph it says "these agreements give the city license to 'perform' copyrighted music of the artists and performers of these organizations represent." How many organizations are out there and is this the only two?

Deputy City Solicitor Arnold replied the main two. My understanding is that there are some more...we have not been contacted by them. I, quite frankly, did not want to ask.

Alderman Gatsas asked Tom do you know is Nashua participating in this agreement...Keene, Portsmouth...any of the other bigger cities?

Deputy City Solicitor Arnold replied I do not know. I would presume they are but I did not ask.

Mayor Baines interjected I have some knowledge of this whole process having been involved in this in another point of my life. For example, if they go into an establishment downtown, haven't paid the fee...they can basically tell the establishment you can no longer have music in it. They're doing the same thing for municipalities now that have musical performances as part of what they do simply because if you wrote a song, you have a copyright to that song, you have a right to receive some payments for it and that's what this is all about.

Alderman Gatsas asked how much...I'm looking at this schedule...did anybody look at the schedule here...the schedule says that population...that based on a population 250,000 to 500,000 is \$1874...now, unless something's happened in the last couple of hours how did we get to this?

Deputy City Solicitor Arnold stated there are two agreements, Alderman.

Alderman Gatsas stated I'm looking at one...tell me...what are you saying they're both \$900? What's the other one?

Alderman Lopez moved to authorize the Mayor to execute such music license agreements, subject to the review and approval of the City Solicitor and further that such licenses be paid for from civic contributions. Alderman Thibault duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Communication from Paul Martineau, Welfare Commissioner, submitting amendments to the City of Manchester's Welfare Guidelines for adoption by the Board pursuant to RSA 165:1(II).

Alderman Lopez moved to adopt the amendments to the City's Welfare Guidelines pursuant to RSA 165:1(II). Alderman Porter duly seconded the motion. There being none opposed, the motion carried.

Deputy City Clerk Johnson stated may I note that Aldermen Roy and Gatsas were opposed to Item #20.

Communication from Cathy Champagne, President of Jutras Signs, requesting that the proposed Manchester Gateway Arch project be given further consideration at each level of the process and that is not be denied before it has been given full and thoughtful consideration.

Alderman Forest stated I believe it's tabled in committee.

Alderman Lopez stated I believe it's tabled at the present time and I think it's going to be an issue taken up at committee...am I correct, Alderman O'Neil?

Alderman O'Neil replied I believe you are correct, Alderman Lopez.

On motion of Alderman Lopez, duly seconded by Alderman Garrity it was voted to refer it to the Committee on Traffic/Public Safety and the Committee on Community Improvement.

Ordinances:

"Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor."

"Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer."

"Amending Sections 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer."

"Repealing Sections 35.107 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester."

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“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

On motion of Alderman Porter, duly seconded by Alderman Thibault it was voted to dispense with the reading by titles only.

These Ordinances having had their third and final reading, on motion of Alderman Osborne, duly seconded by Alderman O'Neil it was voted that they pass and be Ordained.

Resolutions:

“Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Fifty Eight Thousand Five Hundred Eighty Seven Dollars (\$258,587) for the 2004 CIP 210704 Public Health Preparedness Program.”

“Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Five Hundred Thousand Dollars (\$500,000) for FY2004 CIP 612504 Old Wellington Road Apartments Project.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for FY2005 CIP 510005 Parks Facilities Improvement Program.”

“Authorizing the Finance Officer to effect a transfer of Ten Thousand Dollars (\$10,000) for the 2005 CIP 510005 Parks Facilities Improvement Program.”

“Amending the FY2006 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Seven Thousand Two Hundred Seven Dollars Sixty Seven Cents (\$27,207.67) for FY2006 CIP 411606 2005 Homeland Security Grant Program.”

On motion of Alderman Roy, duly seconded by Alderman Garrity it was voted to dispense with the reading by titles only.

On motion of Alderman Forest, duly seconded by Alderman O'Neil it was voted that the Resolutions pass and be Enrolled.

NEW BUSINESS

Alderman Gatsas stated I just want to refresh your memory on the rules of this Board because Rule 24 talks about roll calls. Whenever a member requests a roll call, said roll call shall begin with the member making the request. Rule 25 says the above rules in order of business shall be observed in all cases unless suspended by a vote of 2/3 of the members present for a specific purpose. So, your Honor, I would think that from now on all roll calls will be accepted.

Deputy Solicitor Arnold stated the Alderman has certainly read the rule, however, the Mayor as Chair of this meeting has the ability to recognize or not recognize motions and of course that determination is subject to the Board.

Alderman Gatsas stated I will tell you then that this Board ought to take these rules and throw them away.

Mayor Baines replied I appreciate your comments but I think when it is a close vote it is a relevant issue but I just don't think it is that relevant when people can be recorded in opposition. Thank you for that information. I have asked Mr. MacKenzie to look at whether there were some opportunities for the City to participate in dealing with some of the situations that we are going to be experiencing in our community to assist low income City residents with high utility costs. What I am recommending this evening is I propose to initiate a new energy efficiency program to assist low income City residents with high utility costs. This program will work in conjunction with the new Housing & Rehabilitation Lead Paint Program. Tentatively the program will operate through the existing energy program at Southern NH Services utilizing their experienced staff and existing resources. Funding would amount to \$175,000 from the Affordable Housing Trust Fund and I would like Mr. MacKenzie to spend a little time explaining it and then I believe there will be a motion to refer it to CIP.

Mr. MacKenzie stated given that many of the costs, particularly heating oil but also natural gas is going to jump significantly, the Mayor had asked our staff to kind of look at options on how we could address some of this. There is a fuel assistance program that is run by Southern NH Services but there will still be a jump and we did feel there is an appropriate area to look at the heating efficiency. In essence, this program for low and moderate income families would fund a full inspection and a tune-up of a heating plant and if it was determined that it could not be made reasonably efficient then there would be an opportunity up to \$3,500 to help fund either through a grant or loan a new heating system. We would be working with Southern NH Services. They already run a couple of different programs, including the fuel assistance program and weatherization program. It was the hope of the Mayor, I think, to get this up and running for this winter.

Mayor Baines stated so it would go to the CIP Committee, which is meeting next week and then all of the questions or suggestions that the Aldermen have will come back at the next meeting of the Board for further deliberation.

Alderman Gatsas stated I commend you for this situation but the Federal government is looking at \$18 million and certain \$175,000 is an opportune amount but I think we may be looking and I don't know if it is appropriate for that Affordable Housing Trust Fund if we can implement that for seniors because I think that when you start taking a look at \$3,500 for the replacement of heating units, windows you are talking maybe 50 people in the City qualifying and when you put that high a number the amount that was spent state wide last year for low income heating was about \$570. I think if we start applying that and maybe being the second catch all for the people who may not qualify or don't have quite enough, maybe we can apply another \$100 to these families. Rather than taking \$3,500 and only spending it in 50 households maybe the \$175,000 could be spread to a lot more households. I think that is something we should be looking at.

Mayor Baines stated we can take that recommendation to the CIP Committee.

Alderman Guinta asked how much is in the Affordable Housing Trust Fund.

Mr. MacKenzie answered we were trying to calculate that. It is approximately \$1.3 million.

Alderman Guinta asked and where does that money come from.

Mr. MacKenzie answered these were basically repayments on various Federal funds that came to the City and the City loaned them to different projects and they have been repaid. These are repayments of HUD funds so there still are some strings on it in that it has to be used for low and moderate income housing.

Alderman Guinta asked so they are repayments by HUD or...

Mr. MacKenzie interjected no these are repayments from projects.

Alderman Guinta asked projects that are HUD funded projects.

Mr. MacKenzie answered correct.

Alderman Shea asked of all of the things we have discussed this evening, this makes the most sense. If we can help the least of our brethren we have helped each other. You are to be commended if you came forward or whoever. This is wonderful and I think it makes sense because if we can help the people who need it...and I hope those who really need it

will come forth because sometimes those people are reluctant so I hope they will be helped. Alderman Gatsas made a very excellent suggestion. The more we can spread it around and help people, the better.

Mayor Baines stated I have some empathy with Alderman Gatsas because my parents were in such a situation a number of years ago where they did not have the resources.

Alderman DeVries stated I have a couple of more questions on the Affordable Housing Trust Fund and I think the Planning Department or Bob MacKenzie had indicated that was \$1.3 million. I am just going back through the Finance report that we had tonight when we did authorize a transfer of \$500,000 and it was showing there that it went from \$888,000 to \$358,000. I am just wondering are we...were is the discrepancy here? Are we talking about \$400,000 now minus \$175,000? Not that it matters. I am just wondering...when I heard the source of funding for this I immediately went to see what was available and that was the most recent read, the resolution that came forward tonight.

Mr. MacKenzie stated part of one of the actions tonight was dealing with \$500,000. We have Federal funds, HOME funds that have to be expended. We did recommend that that be swapped into the Old Wellington Road project. Therefore, \$500,000 went back into the Affordable Housing Trust Fund. The \$1.3 million that I gave you did include that \$500,000 that was swapped back in tonight.

Mayor Baines stated we can get some additional information on that at a later date.

Alderman Guinta asked, Bob, did you say that the requirement for Trust Fund funds...what is the requirement to spend it.

Mr. MacKenzie answered basically it has to go towards low and moderate income families to make housing more affordable.

On motion of Alderman Roy, duly seconded by Alderman Shea it was voted to refer this to the Committee on Community Improvement.

Mayor Baines stated Alderman Sysyn and I had the good fortune this evening before this meeting to participate in a groundbreaking for Habitat for Humanity, one of their first projects that they have looked at in six or seven years in Manchester. It is on Dutton Street, which was the scene of a very tragic fire probably about four years ago and one of the families was there, a single mom with two kids to participate in the groundbreaking. They will become homeowners. Construction will start tomorrow. Two families have been selected and I know that Habitat for Humanity is now looking for some other sites around the City to help some of the people who are in need of housing here in the community that meet

certain income guidelines. That is a great project and I want to congratulate you, Alderman Sysyn, for being a part of it.

Mayor Baines stated the Clerk has a couple of issues and then we will go to members of the Board.

Deputy City Clerk Johnson stated I have only one item that we are requesting. There is a State General Special Election being held in Ward 3 on November 8 and we are looking for the Board to approve polling hours from 6 AM until 7 PM for that purpose.

On motion of Alderman Roy, duly seconded by Alderman Forest it was voted to approve the polling hours for the State General Special Election in Ward 3 on November 8 from 6 AM until 7 PM.

Alderman O'Neil stated I have three quick items. First of all I want to recognize Leon LaFreniere. I became aware of a situation where a resident of the City had hired a contractor to do some work. The contractor skipped town and it turned out the contractor never pulled a permit and Leon stepped up to the plate and is helping this resident get it straightened out. I think that is what is good about City government so I want to recognize Leon for that. He did a nice job. Secondly, we do have a member of City staff who is a native of Chicago and hopefully he is not going to be gloating too much tonight about beating the Red Sox. Finally if I could ask the Clerk to please pass out this Resolution there is a study committee going on in Concord regarding House Bill 246. I am just asking that the City go on record supporting the work that the Committee is doing. The Resolution will be passed out and when it gets passed out I would like to move that we adopt the Resolution. It has to do with the misclassification of employees. My understanding is that this is an issue that the Commissioners of Employment Security, Insurance, Labor, and Revenue Administration are all involved with, as well as the Attorney General. It is a major issue apparently in the state. So much so that the House and the Senate set up a study committee. I think they have met a few times and I think they have to report back to the Speaker and Senate President by the 30th of November or something like that.

Mayor Baines stated there has already been a hearing and I have gone up and offered testimony.

Alderman O'Neil stated I understand that many communities around the state are passing a resolution so I want to move on adopting the Resolution:

“A Resolution Urging the New Hampshire General Court to pass Legislation Ending the Illegal Practice of Misclassifying Employees.”

Alderman Thibault duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Lopez stated I have two items. If the Clerk will pass out the Resolution so the Aldermen can see the Resolution in reference to...Manchester Community Television contacted me and somehow the communication got mixed up and the whole Board of Mayor and Aldermen were supposed to receive a copy. All I want to do tonight is bring this to the attention of the Board. It is on Bill S1504 of the U.S. Senate. Senators Ensign and McCain introduced an investment and consumer choice act – Senate Bill 1504 and basically what this bill does is it eliminates \$300 million per year in lost franchise fees alone for MCTV or PEG Access TV. The City of Manchester would lose over \$1.1 million if this bill is ever enacted. What I would like to do tonight basically is to make sure that the City Clerk has all of the correspondence I have and the Resolution that was drawn up and refer it to the Committee on Administration to take a look at this. I talked to Dr. Grace Sullivan and she agrees with Public Access TV who sent this over to me but I think the Director of MCTV should...I see the letter is already being passed out by Dr. Sullivan. She agrees with this but I think we need to go through the process and send it to the Committee on Administration.

Alderman Lopez moved to send all correspondence regarding this particular bill to the Committee on Administration. Alderman Guinta duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Lopez stated the second item I have I previously passed out to the members of the Board and the City Clerk is...I have been in communication with the Hillsborough County Sheriff and Commissioner Toni Pappas and have been working with the union for the last three or four months and also have worked with Frank Thomas, the City Negotiator and others in order to try to utilize Hillsborough County prisoners to do some work in the City of Manchester as they do every day outside of the City of Manchester. Tonight I am asking the Board to endorse the project two-fold. One is a short-term project to transfer \$1,000 from Contingency to a special account to put the project forward in the immediate future. I am also asking the Board to refer the long-term proposal to the Committee on Community Improvement. In the correspondence I have endorsements for this short-term project, which the union has signed off on, some of the areas of the City that they would like to work in, which is median strips in the inner City. As everybody can see they are about 2' tall with weeds and all of that and they would be willing to take care of that for us. We would provide the tools. The City must provide the workers with lunch. That is what the \$1,000 is for. We would have to provide lunch to the prisoners if they work on a detail in the City of Manchester. A truck with flashing lights to protect the prisoners while working on the island would also be needed. Frank Thomas has agreed in principle that he could work on a short-term basis with the prisoners. In order to move forward on this, one of the requirements is that there be \$1,000 put aside to feed the prisoners and that money would be drawn upon by

the Director of the Highway Department at given times so the prisoners would be fed. That is the requirement that we have.

Alderman Lopez moved to authorize \$1,000 and direct the Finance Officer to come back with a resolution for \$1,000 at the next BMA meeting. One of the things...if we can do that your Honor and if there are any questions before we do that I would be happy to answer them but I think the short-term is to move forward with the \$1,000 so that a resolution can come in next month and the Highway Director and the Hillsborough County Sheriff can work out the details.

Mayor Baines asked would it be better if this go to the CIP Committee meeting next month and then a resolution could come forward from CIP on that. Wouldn't that be the right process?

Alderman Lopez answered well it could be a good process but I think in order to make sure there is good faith here with the union we need to put the \$1,000...we are not doing anything but in talking with the Finance Officer a resolution would have to be drawn up anyway and in the meantime we could go on. Knowing that the \$1,000 is going to be there is going to satisfy the union and Frank Thomas to move forward.

Mayor Baines replied just state what your actual motion is.

Alderman Lopez moved to authorize a transfer of \$1,000 from contingency to the Highway Department to come to next month's BMA meeting and to refer the matter to the CIP Committee. Alderman Porter duly seconded the motion.

Alderman Gatsas stated I think this needs to go to a Committee to find out if there is any liability with the City where we are progressively moving forward with this situation.

Mayor Baines stated this motion is just on the dollars. We will just have a resolution drawn up regarding the dollars. The program issues I hope will be discussed at CIP.

Alderman Gatsas stated well I am not going to vote for the dollars until I know what the liability of the City is.

Alderman Lopez replied if I could ask Harry Ntapalis to come up please. While he is coming up, I talked to Deputy Solicitor Arnold and he is going to have to look into it but I made a comment to Mr. Ntapalis this evening and I would like him to give his comments to the Board as he gave to me.

Harry Ntapalis, Risk Manager, stated as Alderman Lopez had brought up and Alderman Gatsas regarding the liability, the one thing that is a little bit different when you use the

prisoners and we had done so in the early 90's to clean up part of Valley Street and again lunch was provided, we had specifically gotten instructions from the State of New Hampshire. We asked about worker's compensation exposure. They are considered a ward of the state, which makes a big difference. We wouldn't be underwriting any risk exposure in that particular venue. We would utilize them for work within the City.

Alderman Lopez stated all I am saying is let them do the paperwork and send this to CIP and then come back with the resolution.

Alderman Gatsas asked what union has to approve this.

Alderman Lopez answered it has to be approved by Mike Rockwell, who is the representative for the Highway Department and Parks & Recreation who is responsible for this particular job.

Mayor Baines asked who requires that, the prison.

Alderman Lopez answered no the union is required to sign-off on anything that we want to do with the prisoners. Frank Thomas can probably weigh in on this.

Frank Thomas, Public Works Director, stated the AFSME union potentially could file a grievance for coming in with people from outside the department to take work away from them. If you remember correctly, I believe the School Administration proposed to have some people do painting in that facility and a union raised the issue. What Alderman Lopez has done is met with the President of the AFSME union and we have reached an agreement whereby these prisoners would do work but typically work that is not funded by the City so that it wouldn't be work taken away from existing employees.

Deputy City Clerk Johnson stated the motion is to authorize the \$1,000 to come back in the form of a contingency resolution at the next meeting and refer the matter to the CIP Committee.

Alderman Osborne stated shouldn't it be referred to the City Solicitor first before we go through all of this.

Mayor Baines stated the City Solicitor will review it and be part of the CIP report.

Mayor Baines called for a vote on the motion. The motion carried with Alderman DeVries duly recorded in opposition.

Alderman Shea asked how much would it cost the City if City workers, unionized workers did this. Are we talking a considerable amount of money if we sent some guys or women down there to do it?

Mr. Thomas answered Alderman Lopez is talking potentially about four prisoners at a time with a supervisor. A laborer would potentially be earning about \$25,000 a year not including benefits. Again, I support this proposal because any additional work that can be done in our right-of-ways and our parks will benefit everybody.

Alderman Shea asked so you don't have a financial figure but it would be roughly in the hundreds of thousands of dollars.

Mr. Thomas answered if they were working full-time every day you are probably talking with benefits maybe \$130,000.

Alderman Shea stated well our colleague has to be commended for coming up with the idea.

Alderman Smith stated Harry I would like to go back to liability. If there is an incident between a prisoner and one of our citizens for some reason or another, what are the ramifications? Who is at fault and what is the situation? Can someone sue the City?

Mr. Ntapalis stated the arrangement that was made previously, Alderman, when we had in the early 1990's utilized prisoner was the exposure that we had for liability as well as worker's compensation, any of the casualty areas, would be really a state responsibility as opposed to the City and that is why we entered into that arrangement with the then superintendent for the Hillsborough Country Correctional Facility.

Alderman Smith asked in other words you are telling me the state would take responsibility for liability and we would have no liability whatsoever.

Mr. Ntapalis answered you can't, when you bring up the words the City is exempt or not in a position where it can be sued...anybody can be sued for anything at any time so they could bring that up but there are various protections we have under indemnification provisions and that probably would be something that our Solicitor's Office could answer more but when you enter into an agreement with the State of New Hampshire the prisoners are considered wards of the state. The bulk of that exposure rests with the State of New Hampshire if we enter that arrangement.

Alderman Smith stated we are endorsing the program so I would think being a common man that there would be liability with the City. This is all I am getting at. We have worker's compensation claims out there that cost departments a substantial amount of money and I believe the idea sounds very good but I agree with Alderman Gatsas that the liability...I

would like to see this cleared up. I don't mind putting \$1,000 away but I would like to not endorse the project until we get further information.

Mayor Baines stated I, too, would like to see the liability issue really addressed at CIP next week so there is a comfort level when it comes back to the Board.

Mr. Ntapalis stated and the worker's compensation question also that Alderman Smith brings up we did get from the late Commissioner Flynn when we entered into that arrangement with Hillsborough County back in the early 90's verification that the worker's compensation, any time you receive a service from anyone, even if they are volunteers or federal program individuals, we are as a municipality on the hook for underwriting the worker's compensation. The only distinction that was made was if you are utilizing state prisoners or county prisoners that worker's compensation would be waived.

Alderman DeVries stated I would like to ask a couple of more questions of Frank Thomas in reference to the union and individuals possibly filing grievances. I understand that the President of the union has given us some sort of a letter saying that he conceptually agrees with this but that really doesn't prohibit an individual who feels that their job duties are somehow compromised from filing an individual grievance. Wouldn't they still have that avenue available to them?

Mr. Thomas responded that is correct but I would think it would be up to the President of the union to bring it forward. If there was an employee that raised that issue and the President of the union is supportive of the program he would most likely try to resolve that.

Alderman DeVries stated as you indicated this is a proposal that has been brought forward before and has made many of the unionized employees of the City very uncomfortable because it can be looked upon as taking work away from them that would otherwise be compensated by wages. It gets into very difficult territory and I am not sure I am comfortable with this short letter and I think that needs to be pursued further to make sure the union fully understands what they have authorized and that the membership endorses it as well.

Mayor Baines stated can I remind the Board that all of these issues are going to be discussed in Committee and then a full report will come back to the Board.

Alderman Gatsas asked Frank would you consider these people Solid Waste Compliance Officers.

Mayor Baines called for a vote on the motion to authorize the \$1,000 to come back in the form of a contingency resolution at the next meeting and refer the matter to the CIP Committee. The motion carried with Aldermen DeVries being duly recorded in opposition.

Alderman Roy stated as Solid Waste Chairman I would like to announce that this Saturday, October 8, between 9 AM and 2 PM is the Household Hazardous Waste Day and we strongly encourage anyone who has hazardous waste in their basements, which includes herbicides, pesticides, oil based paints, wood stains, strippers, sealant thinners, poisons, etc. to place it in a container and bring it to the Drop Off Center. Anything between 10 gallons or 20 lbs. will be accepted per homeowner. If you have any questions, please contact Joanne McLaughlin at the Highway Department.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman Thibault it was voted to adjourn.

A True Record. Attest.

City Clerk